IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 33293 of 2007(L)

PETITIONER:

SHAJI,AGED 37,S/O.SUBRAMONIAN,
MANIYANKAVU DESOM, PUTHENCHIRA VILLAGE,
MUKUNDAPURAM TALUK, MANAGING PARTNER,
M/S. LEGEND PAX, MANIYAMKAVU, PUTHENCHIRA
THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, ERNAKULAM.

2. THE COMMERCIAL TAX OFFICER,
CHALAKUDDY, THRISSUR DISTRICT.

3. THE INSPECTING ASSISTANT COMMISSIONER
DEPARTMENT OF COMMERCIAL TAXES, IRINJALAKUDA.

BY GOVT. PLEADER, SRI. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 33293 OF 2007 L
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Dated this the 13th November, 2007

J U D G M E N T

Ext. P5 order is under challenge.

2. The facts of the case are that the petitioner had filed Exts. P2 and P4 appeals along with application for stay which were considered by the appellate authority. The appellate authority thereafter passed Ext. P5 order granting stay on condition that the petitioner remits 50% of the tax due and furnish security for the balance amount. It is this order that is under challenge.

3. Referring to ground 6 of Ext. P2 appeal, petitioner submits that he is entitled to the claim of exemption. According to the learned counsel for the petitioner, the assessing authority had wrongly denied the claim for exemption.

4. In my view these are matters for the appellate authority to consider. This argument has been raised before the appellate authority at the time when the

stay petition was heard. It is so stated in Ext. P5 order itself. On that basis the appellate authority concluded that there is prima facie case for stay and accordingly the conditional stay has been granted. Petitioner has no case of any financial hardship. In that view of the matter, I do not see any error in Ext. P5.

5. However, the time granted for payment of the amount as per Ext. P5 will stand extended by three weeks.

The writ petition is disposed of as above.

ANTONY DOMINIC
JUDGE

jan/-